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*North Carolina Hospital Association*

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Rep Tom Murry  
Sen. Thom Goolsby  
Chairs, Legislative Research Commission  
on Pathological Materials

Dear Chairs Goolsby and Murry,

The NC Hospital Association and our member hospitals are committed to providing the clearest process for patients to access important laboratory samples while also preserving the patient's ability to access more material if needed in the future for medical diagnosis and/or treatment and protecting the integrity and licensure of the laboratory housing the sample. Hospitals across the state are currently undergoing a review of their policies and procedures related to the requests made, predominately by attorneys and their consultant labs, for pathologic samples, to determine how most appropriately to meet that commitment.

Contrary to assertions that there are "hundreds of cases" in which there were problems accessing pathologic materials, most hospitals can only locate a handful of cases where attorneys have had to obtain a court order to get access to the samples. Based on that investigation, it appears that most of those cases are very specific and are requests for the entire pathologic sample. Releasing the entire sample would leave hospital laboratories with no ability to help patients who may need the samples for their care at a later time or to allow a hospital to address potential liability related to that sample or that patient's care. Further, if hospitals release the entire sample, they would neither be able to meet the federal requirements for mandatory pathology block maintenance under 42 C.F.R. § 493.1105 nor respond to an audit by a licensing or credentialing body. Failure to meet the standards set by federal credentialing and licensure agencies could result in revocation or suspension of our license which would be disastrous for all patients cared for in our hospitals. Requiring a court order under those circumstances ensures that an independent third party has assessed the request and provides a forum for important discussion, particularly when the entire block is being requested for litigation.

We understand the position asserted by the trial lawyers regarding their interest in evaluating the pathological samples for their cases. As we have indicated, pathologists and hospital attorneys across the state are actively working to develop protocols that can accommodate these requests while still protecting the integrity of the samples and addressing the broader hospital compliance and patient care issues. We are confident that a mutually acceptable process can be crafted and that there is no need for legislation to address these issues.

Thank you for the opportunity to provide information about how hospitals are working to provide appropriate access for patients to their pathologic materials. Please let me know if you would like additional information or if I can help address these issues further.

Sincerely,

Hugh H Tilson, Jr  
Senior Vice President